

§ 147-86.42. Definitions.

As used in this article, the following definitions apply:

- (1) Repealed by Session Laws 2017-193, s. 2.1, effective October 1, 2017.
- (2) "Business operations" means engaging in commerce in any form in Sudan, including by acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, or any other apparatus of business or commerce.
- (3) "Company" means any sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or other entity or business association, including all wholly-owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates of such entities or business associations, that exists for profit-making purposes.
- (4) "Complicit" means taking actions during any preceding 20-month period which have directly supported or promoted the genocidal campaign in Darfur, including, but not limited to, preventing Darfur's victimized population from communicating with each other, encouraging Sudanese citizens to speak out against an internationally approved security force for Darfur, actively working to deny, cover up, or alter the record on human rights abuses in Darfur, or other similar actions.
- (5) Repealed by Session Laws 2017-193, s. 2.1, effective October 1, 2017.
- (5a) "Investment" means a commitment or contribution of funds or property, whatever the source, or a loan or other extension of credit. It does not include beneficial ownership through index funds, commingled funds, limited partnerships, derivative instruments, or the like.
- (6) "Government of Sudan" means the government in Khartoum, Sudan, which is led by the National Congress Party (formerly known as the National Islamic Front) or any successor government formed on or after October 13, 2006 (including the coalition National Unity Government agreed upon in the Comprehensive Peace Agreement for Sudan), and does not include the regional government of southern Sudan.
- (7), (8) Repealed by Session Laws 2017-193, s. 2.1, effective October 1, 2017.
- (9) "Marginalized populations of Sudan" include, but are not limited to, the portion of the population in the Darfur region that has been genocidally victimized; the portion of the population of southern Sudan victimized by Sudan's North-South civil war; the Beja, Rashidiya, and other similarly underserved groups of eastern Sudan; the Nubian and other similarly underserved groups in Sudan's Abyei, Southern Blue Nile, and Nuba Mountain regions; and the Amri, Hamadab, Manasir, and other similarly underserved groups of northern Sudan.
- (10) "Military equipment" means weapons, arms, military supplies, and equipment that readily may be used for military purposes, including, but not limited to, radar systems or military-grade transport vehicles; or supplies or services sold or provided directly or indirectly to any force actively participating in armed conflict in Sudan.
- (11) "Mineral extraction activities" include exploring, extracting, processing, transporting, or wholesale selling or trading of elemental minerals or associated metal alloys or oxides (ore), including gold, copper, chromium, chromite, diamonds, iron, iron ore, silver, tungsten, uranium, and zinc, as well

as facilitating such activities, including by providing supplies or services in support of such activities.

- (12) "Oil-related activities" include, but are not limited to, owning rights to oil blocks; exporting, extracting, producing, refining, processing, exploring for, transporting, selling, or trading of oil; constructing, maintaining, or operating a pipeline, refinery, or other oil-field infrastructure; and facilitating such activities, including by providing supplies or services in support of such activities, provided that the mere retail sale of gasoline and related consumer products shall not be considered Oil-Related Activities.
- (13) "Power production activities" means any business operation that involves a project commissioned by the National Electricity Corporation (NEC) of Sudan or other similar Government of Sudan entity whose purpose is to facilitate power generation and delivery, including, but not limited to, establishing power-generating plants or hydroelectric dams, selling or installing components for the project, providing service contracts related to the installation or maintenance of the project, as well as facilitating such activities, including by providing supplies or services in support of such activities.
- (14) "Public fund" means any funds held by the State Treasurer to the credit of:
 - a. The Teachers' and State Employees' Retirement System.
 - b. The Consolidated Judicial Retirement System.
 - c. The Firemen's and Rescue Workers' Pension Fund.
 - d. The Local Governmental Employees' Retirement System.
 - e. The Legislative Retirement System.
 - f. The Legislative Retirement Fund.
 - g. The North Carolina National Guard Pension Fund.
- (14a) "Restricted business operations" means business operations that have resulted in a company becoming a restricted company.
- (15) "Restricted company" means any company that meets the criteria in sub-subdivisions a., b., or c. below:
 - a. The company has business operations that involve contracts with and/or provision of supplies or services to the Government of Sudan, to companies in which the Government of Sudan has any direct or indirect equity share, Government of Sudan-commissioned consortiums or projects, or to companies involved in Government of Sudan-commissioned consortiums or projects and at least one of the following conditions is satisfied:
 - 1. More than ten percent (10%) of the company's revenues or assets linked to Sudan involve oil-related activities or mineral extraction activities less than seventy-five percent (75%) of the company's revenues or assets linked to Sudan involve contracts with and/or provision of oil-related or mineral extracting products or services to the regional government of southern Sudan or a project or consortium created exclusively by that regional government; and the company has failed to take substantial action.
 - 2. More than ten percent (10%) of the company's revenues or assets linked to Sudan involve power production activities; less than seventy-five percent (75%) of the company's power production activities include projects whose intent is to provide

power or electricity to the marginalized populations of Sudan; and the company has failed to take substantial action.

- b. The company is complicit in the Darfur genocide.
- c. The company supplies military equipment within Sudan, unless it clearly shows that the military equipment cannot be used to facilitate offensive military actions in Sudan or the company implements rigorous and verifiable safeguards to prevent use of that equipment by forces actively participating in armed conflict, for example, through post-sale tracking of such equipment by the company, certification from a reputable and objective third party that such equipment is not being used by a party participating in armed conflict in Sudan, or sale of such equipment solely to the regional government of southern Sudan or any internationally recognized peacekeeping force or humanitarian organization.

Notwithstanding anything herein to the contrary, a social development company which is not complicit in the Darfur genocide shall not be considered a restricted company.

- (16) "Social development company" means a company whose primary purpose in Sudan is to provide humanitarian goods or services, including medicine or medical equipment, agricultural supplies or infrastructure, educational opportunities, journalism-related activities, information or information materials, spiritual-related activities, services of a purely clerical or reporting nature, food, clothing, or general consumer goods that are unrelated to oil-related activities, mineral extraction activities, or power production activities.
- (17) "Substantial action" means adopting, publicizing, and implementing a detailed plan to cease restricted business operations within one year and to refrain from any such new business operations; undertaking significant humanitarian efforts on behalf of one or more marginalized populations of Sudan; or through engagement with the Government of Sudan, materially improving conditions for the genocidally victimized population in Darfur. (2007-486, s. 2; 2015-241, s. 21.2(a); 2015-268, s. 7.5; 2017-193, s. 2.1; 2018-84, s. 4(b).)